

## SUSPENSION OF CONTRIBUTIONS

ERISA §4218

ERISA ERISA §4218

ER4218-4

## ERISA

**[ER4218-0] ERISA §4218. [29 USC §1398] Withdrawal not to occur merely because of change in business form or suspension of contributions during labor dispute.**

Notwithstanding any other provision of this part [29 USCS §§1381 *et seq.*], an employer shall not be considered to have withdrawn from a plan solely because—

(1) an employer ceases to exist by reason of—

(A) a change in corporate structure described in section 4069(b) [29 USCS §1369(b)], or

(B) a change to an unincorporated form of business enterprise,

if the change causes no interruption in employer contributions or obligations to contribute under the plan, or

(2) an employer suspends contributions under the plan during a labor dispute involving its employees.

For purposes of this part [29 USCS §§1381 *et seq.*], a successor or parent corporation or other entity resulting from any such change shall be considered the original employer.

(Sept. 2, 1974, P. L. 93-406, Title IV, Subtitle E, Part I, §4218, as added Sept. 26, 1980, P. L. 96-364, Title I, §104(2), 94 Stat. 1236; Dec. 19, 1989, P. L. 101-239, Title VII, Subtitle H, Part V, Subpart D, §7893(f).)

**Effective date of section:**

For the effective date of this section, see 29 USCS §1461(c)(2).

**Amendments:**

In 1989, Act Dec. 19, 1989, in subsec. (1)(A), substituted "4069(b)" for "4062(d)".

**Other provisions:**

Effective date of amendments made by Act Dec. 19, 1989, Act Dec. 19, 1989, P. L. 101-239, §7893(h), 103 Stat. 2448, provided:

"Any amendment made by this section shall take effect as if included in the provision of the Single-Employer Pension Plan Amendments Act of 1986 to which such amendment relates."

## COMMITTEE REPORTS

**[ER4218-1.20] ('80 MPPAA, P.L. 96-364, 09/26/1980), Labor dispute.**

\* \* \* \* \*

[House Explanation (Report 96-869 Part II)]

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In addition, a withdrawal does not take place merely because an employer suspends making plan contributions during a labor dispute which involves its employees.

[House Floor Explanation (Congressional Record p. H7898, August 26, 1980)]

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\* \* \* A temporary suspension of contributions during a strike or lockout would not be a permanent cessation of an obligation to contribute within the meaning of sec-

tion 4203. However, consistent with the purposes of the bill, if the facts and circumstances of a particular situation indicate that contributions have ceased permanently—for example, all employees covered under the plan have been permanently replaced or the facility has been closed—the fact that the cessation of any contribution obligation was precipitated by a labor dispute does not mean that no withdrawal has taken place.

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## EXPLANATION

**[ER4218-4] Withdrawal not to occur because of change in business form or suspension of contributions during labor dispute.** The disappearance of an employer through a mere change of form, merger, liquidation into its parent or the like